

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 20.11.2020

CORAM

THE HONOURABLE MR.JUSTICE A.D.JAGADISH CHANDIRA

Crl.O.P.No. 18313 of 2020

Bharathkumar

... Petitioner/Accused

Vs.

The State represented by,

The Inspector of Police,

Shevapet Police Station, Salem District.

(Crime No.1068 of 2020)

... Respondent/Complainant

Prayer: Criminal Original Petition filed under Section 439 Cr.P.C. to enlarge the petitioner on bail in Crime No. 1068 of 2020, on the file of the respondent police.

For Petitioner : Mr.B.Vasudevan

For Respondent : Mr.T.Shunmugarajeswaran

Government Advocate (Crl. Side)

O R D E R

(The case has been heard through video conference)

The petitioner who was arrested and remanded to judicial custody on 11.10.2020 for the offences punishable under Section **77 of the Juvenile Justice (Care and Protection of Children) Act, 2015 and Sections, 6, 24(1) of Cigarette and other Tobacco Products Act 2003**, in Crime No. 1068 of 2020, on the file of the respondent police, seeks bail.

2. The case of the prosecution as per the defacto complainant viz., G.Raja, S.I. of police is that on 11.10.2020 at about 08.30 a.m., while he along with his party was on their regular check up at Trichy Main Road, Salem Gugai, on seeing them, one Juvenile Azar aged 17 years has attempted to run away from that place, however, they had caught him and on enquiry, he was found in possession of one Hans packet and had stated that he has received it from the petitioner. Thereafter, the defacto complainant has arrested the petitioner on the allegation that he was in illegal possession of banned tobacco products in one white

gunny bag, which contain 45 hans packets, 30 small packets of vimal panmasala kept in 4 bundles, 30 small pockets of V-1 tobacco packed in four bundles.

3. The learned counsel appearing for the petitioner would submit that the petitioner is an innocent and he has been falsely implicated in this case. On instruction, he would further submit that without prejudice to his defence, the petitioner is prepared to deposit considerable amount to any charitable Organization or Association, and that the petitioner has been suffering incarceration from 11.10.2020. Hence, he prays to grant bail to the petitioner.

4. The learned Government Advocate (Crl.Side) appearing for the respondent would submit that the petitioner was found in illegal possession of banned tobacco products, worth of Rs.1,100/-. He would further submit that there is no previous case pending against the petitioner. However, he opposed to grant bail to the petitioner.

5. In order to curb the illegal activities, this Court is of the opinion that the petitioner is directed to deposit a sum of Rs.5,000/- (Rupees Five Thousand only) as non refundable deposit to the **Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch**, without prejudice to his rights and contentions before the trial Court.

6. Merely, because the petitioner deposits the said amount, it would not amount to admission of his guilt. Therefore, it is open to the trial Court to deal with the case independently.

7. Taking into consideration of the facts and circumstances and also the submissions made by the learned counsels and also considering the period of incarceration by the petitioner from 11.10.2020, this Court is inclined to grant bail to the petitioner subject to the following conditions:

(a) Accordingly, the petitioner is ordered to be released on bail on condition to make a non refundable deposit of Rs.5,000/- (Rupees Five Thousand only) through RTGS/NEFT in favour of the **"Cancer Institute (WIA) (Regional Cancer Centre), Adyar, Chennai - 600020, bearing A/c.No.149710011005477, Andhra Bank, Madhya Kailash Branch"**, on such deposit and production of proof, the petitioner is ordered to be released on bail on condition to execute a bond for a sum of Rs.10,000/- (Rupees Ten Thousand only), with two sureties each for a like sum to the satisfaction of the learned Judicial Magistrate No.III, Salem and on further conditions that:

(b) the sureties shall affix their photographs and Left Thumb Impression in the surety bond and the learned Magistrate may obtain a copy of their Aadhar Card or Bank Pass Book to ensure their identity;

(c) the petitioner shall report before respondent police everyday at 10.30 a.m., until further orders.

(d) the petitioner shall not commit any offences of similar nature;

(e) the petitioner shall not abscond either during investigation or trial;

(f) the petitioner shall not tamper with evidence or witness either during investigation or trial;

(g) on breach of any of the aforesaid conditions, the learned Judicial Magistrate/Trial Court is entitled to take appropriate action against the petitioner in accordance with law as if the conditions have been imposed and the petitioner released on bail by the learned Magistrate/Trial Court himself as laid down by the Hon'ble Supreme Court in **P.K.Shaji vs. State of Kerala** [(2005)AIR SCW 5560];

(h) if the accused thereafter abscond, a fresh FIR can be registered under Section 229A IPC.

8. With the above directions, this Criminal Original Petition is ordered.

-sd/-

20/11/2020

This order, on being produced, be punctually observed and carried into execution by all concerned

TRUE COPY

Sub-Assistant Registrar (Statistics/C.S.)
High Court, Madras - 600 104.

TO

1 THE JUDICIAL MAGISTRATE NO.III
SALEM

2 THE CHIEF JUDICIAL MAGISTRATE
SALEM [FOR INFORMATION]

3 THE SUPERINTENDENT,
CENTRAL PRISON, SALEM

4 THE PUBLIC PROSECUTOR
HIGH COURT, MADRAS.

5 THE INSPECTOR OF POLICE,
SHEVAPET POLICE STATION, SALEM DIST.

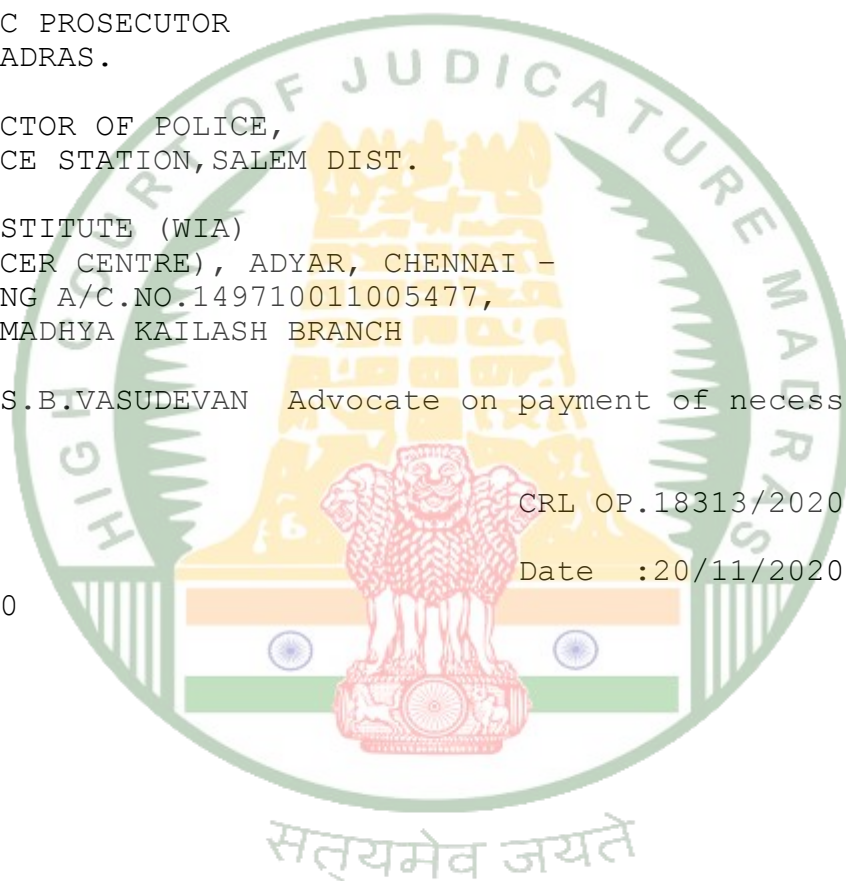
6 CANCER INSTITUTE (WIA)
(REGIONAL CANCER CENTRE), ADYAR, CHENNAI -
600020, BEARING A/C.NO.149710011005477,
ANDHRA BANK, MADHYA KAILASH BRANCH

CC to M/S.B.VASUDEVAN Advocate on payment of necessary
charges

CRL OP.18313/2020

Date :20/11/2020

GKS:23/11/2020



WEB COPY